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9 Attorneys for Petitioner
10 Thomas Guiseppe Miccio

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF NORTHERN CALIFORNIA

13 SITTING AS A TREATY TRIBUNAL UNDER
14 ARTICLE III SECTION 2 OF THE UNITED STATES CONSTITUTION
15 CONCURRENT JURISDICTION CONFERRED BY 42 U.S.C. 11601 ET SEQ.

16 In re the Matter of:

17 Thomas Guiseppe Miccio,

18 Petitioner,

19 and

20 Tania Darlene Miccio,

21 Respondent.

22 } Case No. CV-10-3976 EMC

23 } **STIPULATION AND ORDER – NO**
24 } **AFFIRMATIVE ACTION TO SERVICE**
25 } **PROCESS ON PETITIONER THOMAS**
26 } **MICCIO ; ORDER**

27 THE CONVENTION ON THE CIVIL ASPECTS
28 OF INTERNATIONAL CHILD ABDUCTION,
29 DONE AT THE HAGUE ON 25 OCT. 1980 [THE CONVENTION]

30 INTERNATIONAL CHILD ABDUCTION REMEDIES ACT
31 42 U.S.C. 11601 et seq.

32 Thomas Miccio(Petitioner) by and through and his attorney, Stephen B. Ruben and Tania
33 Miccio(Respondent) by and through her attorney, Brent Seymour so stipulate as follows:

- 1 1. There is a pending action before this Court under the Hague Convention filed by
2 Petitioner hereinafter referred to as Petitioner") seeking to return the parties minor child
3 to Denmark which Petitioner alleges Isabella's her habitual residence.
- 4 2. Respondent initially initiated legal separation proceedings in the Marin County,
5 California under Case No. FL1003657.
- 6 3. Petitioner filed a Motion to quash claiming lack of minimum contacts in the State of
7 California for the Court of California precluding Petitioner to submit to the personal
8 jurisdiction.
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- 10 4. The parties submitted briefs on this matters and the Court on December 3, 2010 granted
11 Petitioner's Motion to quash and dismiss the legal separation proceedings, but stayed the
12 custody issues under the Uniform Child Custody Enforcement Act pending the
13 disposition of Petitioner's Hague Convention Petition.
- 14 5. The parties through their respective counsel attended a case management conference on
15 December 15, 2010 in which the Court ordered that the parties appear and participate in
16 an Early Neutral Evaluation.
- 17 6. The parties agree to an ENE conference of March 9, 2011 to be conducted by Harold
18 John McElhinny at Morrison and Forrester at 10:00 a.m.
- 19 7. In conjunction with the Petitioner's anticipated appearance at the ENC, the parties agree
20 that Petitioner appearance as court mandated ENC shall not be considered to be
21 submitting to the personal jurisdiction of the California Courts. Petitioner's appearance
22 shall not be a basis for Respondent to assert or claim that he now has submitted to the
23 jurisdiction and therefore there are sufficient minimum contacts to proceed in either any
24 legal separation, legal dissolution or any other court proceedings to be filed in either in
25 State or Federal Court.
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8. Respondent and her counsel agree not to attempt to serve process of any petition or complaint that is either pending or may be initiated while Petitioner is in United States either here in California or any other state while Petitioner is in transit to United States from Denmark and his return for his attendance of the ENC conference. Any attempted service or service shall be given no legal effect by this Court or any court of competent jurisdiction and shall be a basis for seeking sanctions and attorney's fees against Respondent and her counsel.

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DATED: *Feb. 28,* March __, 2011

THE RUBEN LAW FIRM

By: *[Signature]*
Stephen B. Ruben
Attorney for Petitioner

DATED: *Feb. 28,* March __, 2011

THORNE-SEYMOUR-MEHMET

By: *[Signature]*
Brent Seymour
Attorney for Respondent

IT IS SO ORDERED:

Edward M. Chen
U.S. Magistrate Judge

